

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MICHAEL SHANE STEPHENS

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:07cv96LGJMR

HARRISON COUNTY, MISSISSIPPI;
SHERIFF GEORGE H. PAYNE, JR.;
AND UNKNOWN OFFICERS IN THEIR
INDIVIDUAL AND OFFICIAL CAPACITY

DEFENDANTS

MOTION TO COMPEL

COMES NOW Defendant, George H. Payne, Jr., in his official and in individual capacities, by and through his attorneys, Dukes, Dukes, Keating & Faneca, P.A., and pursuant to the Federal Rules of Civil Procedure, file this Motion to Compel Plaintiff's Answers and Responses to Discovery, and would show unto the Court the following, to-wit:

I.

Defendant Sheriff George H. Payne, Jr.'s First Set of Interrogatories were served on or about October 15, 2007 and Requests for Production of Documents were served on or about October 26, 2007. Notices of said discovery requests are attached collectively hereto as **Exhibit "A"**¹. To date, Plaintiff has not served any responses to said discovery.

¹ Notice of Interrogatories was filed on October 15, 2007 and Notice of Request for Production of Documents was filed on October 26, 2007. Also, on December 27, 2007, assistant for defense counsel forwarded by e-mail another copy of the discovery to counsel for the Plaintiff. See attached **Exhibit "B"**.

II.

The undersigned certifies that a good faith effort has been made to resolve this discovery dispute pursuant to Uniform Local Court Rule 37.1. See Good Faith Certificate and correspondence attached hereto as **Exhibit “C”**. As stated in the affidavit, attached hereto as **Exhibit “D”**, on December 12, 2007, counsel for the Defendants mailed a Good Faith Certificate to Plaintiff, but never received a response.

III.

To date, the Plaintiff has wholly and fully failed to respond to the Interrogatories and Requests for Production of Documents propounded to him, and an Order should be entered against Plaintiff compelling him to furnish responses thereto. Counsel for the Defendants hereby certifies that they have attempted a good faith resolution of this matter pursuant to Uniform Local Rule 37.1 for the Southern District of Mississippi.

IV.

In addition, due to Plaintiff's failure to timely and adequately respond to Defendant's discovery requests, Defendant is prejudiced by the fact that he is not in a position to fully evaluate Plaintiff's case and determine whether other individuals should be deposed. Therefore, Defendant reserves the right to file a motion for additional time to complete discovery and for additional time to file dispositive motions in the event one should be needed.

WHEREFORE, PREMISES CONSIDERED, the Defendant files his Motion to Compel and respectfully request that this Court enter an Order compelling the Plaintiff to respond to discovery as propounded to him by the Defendant.

RESPECTFULLY SUBMITTED, this the 17th day of January, 20087.

SHERIFF GEORGE PAYNE, JR., officially
and in his individual capacity

BY: DUKES, DUKES, KEATING & FANCA, P.A.

BY: S/Cy Faneca
Cy Faneca

CY FANCA, MSB#5128
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CERTIFICATE OF SERVICE

I, CY FANCA, do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Counsel for Plaintiff:
LaQuetta M. Golden, Esq.
12311 Ashley Dr., Suite D
Gulfport, MS 39503

Counsel for Harrison County:
Karen J. Young, Esq.
Post Office Drawer 550
Gulfport, MS 39502

This, the 17th day of January, 2008.

S/Cy Faneca
CY FANCA